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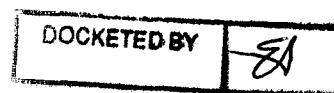
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November 7, 1996

Arizona Corporation Commission
DOCKETED

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James Matthews
Executive Secretary
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

Re: Docket No. U-0000-94-165, Proposed Rule -- Retail Electric Competition

Dear Mr. Matthews:

Enclosed please find the comments of Destec Energy, Inc. on the Commission's proposed Rule in the above-referenced docket.

Sincerely,

Barry N. P. Huddleston
Regional Manager, Regulatory Affairs
Destec Energy, Inc.
2500 CityWest Blvd., Suite 150
Houston, Texas 77042

cc: Service List

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE COMPETITION)
IN THE PROVISION OF ELECTRIC)
SERVICES THROUGHOUT THE STATE)
OF ARIZONA.)

DOCKET NO. U-0000-94-165

Comments of Destec Energy, Inc.
on the Proposed Rule

Destec Energy, Inc. ("Destec") is pleased to submit the following comments on the Commission's proposed rule regarding retail electric competition. As noted in our comments of September 11, 1996, Destec applauds the Commission for its thoughtful and balanced approach to the transition of the electric industry to one "regulated" by market forces more so than by regulatory rule. However, Destec recommends that the Commission consider the few modifications contained herein to better accomplish a smooth transition, and to bring the benefits of competition to the buying public more expeditiously. Destec knows full well the discipline forced upon competitors in the marketplace, and believes strongly that market forces provide the only mechanism for getting lower prices to end users: and, only if all customers are given the ability to choose their suppliers will market forces truly be unleashed in the electric industry. Fortunately, the very nature of the industry is changing. The role of policy-makers now must be to objectively separate the functions within the electric industry which do not require regulation from those that do: only then will the public interest truly be served.

Given this backdrop, Destec reiterates several of its recommendations from comments filed September 11, 1996. With regard to § R14-2-1604, **Competitive Phases**, Destec recommends a deliberate **but more aggressive** "phase in," commencing no later than January 1, 1998. Destec supports the Commission's contemporaneous access for all customer classes, as well as the set-aside for residential customers. However, there is no physical, financial, or other reason to delay the clear benefits of competition beyond 1998. Specifically, Destec recommends that § R14-2-1604(A) be modified to initiate customer access for 25 percent of the 1995 system retail peak of Affected Utilities by January 1, 1998. As a corollary, § R14-2-1604(B) should be modified to accommodate access for the remaining 75 percent of customers, as measured

by 1995 system peak demand (for a total of 100 percent, in aggregate), by January 1, 2000; and, §§ R14-2-1604(C) and (D) should be deleted.

The need for this more aggressive timetable, shortened transition, and true industry restructuring is highlighted by business activities engaged in by one Arizona public utility -- the Salt River Project ("SRP"). While SRP is not currently an Affected Utility under the Commission's proposed Rule, SRP is able to "competitively" bid wholesale power throughout the Western U. S. and Mexico; all the while enjoying a stable base of service-territory-bound, captive retail customers. Protected, but not regulated as investor-owned utilities are, SRP was able to bid less than 2.5 cents/kwh to CFE in Mexico for 100 percent load factor, firm delivered service in 1997. Destec wonders whether SRP would be able to bid this aggressively if it did not have a captive *ratepayer* base within Arizona. It is Destec's belief that only through a rapid transition to a total customer choice regime can electric *customers* truly be protected from potential cross-subsidization abuses by public utilities attempting to compete in competitive arenas while continuing to provide regulated or protected services in other areas. It is also Destec's recommendation that the Commission work with the Arizona legislature in the upcoming legislative session to ensure that all Electric Service Providers ("ESP") within Arizona are treated fairly and have equal opportunities to serve any customers they desire to serve -- and that no ESP is provided with legislative, regulatory, or other artificial advantages as compared to any other ESP.

Further, Destec again recommends that § R14-2-1604(F) be modified to allow, at the customer's discretion, "conversion" of existing full services contracts to "transportation-only" contracts -- at the date of adoption of the Rule. This change would effectuate unbundling, as well as accommodate buy-through service. Further, such conversion would presage the onset of direct access service; and, would ensure that competition reaches all customers -- including those that happened to negotiate long-term contracts during the period during which they had few "real" alternatives to the regulated, vertically-integrated utility.

Specifically with regard to Buy-throughs, as provided for in § R14-2-1604(G), Destec recommends that Affected Utilities be *required* to offer such service(s) -- at least to the extent that the general body of customers is no worse off.¹ For example, if an Affected Utility experienced load growth based on the 1995

¹ As an alternative, language might be included to forbid the withholding of such service "unreasonably."

system retail peak of 3 percent, 3 percent of the Affected Utility's load based on the 1995 system retail peak could reasonably be offered a buy-through option -- and the general body of customers would not be any worse off.

Destec also has concerns about the clear proclamation contained within § R14-2-1607(B) that the Commission "shall allow recovery of unmitigated Stranded Costs by Affected Utilities." As noted in our prior comments, Destec does not believe that the established system of rate regulation constitutes a "guarantee" to utility shareholders of a return on investment -- nor does Destec believe that legal or economic justification exists for providing stranded cost recovery. The above-cited language of § R14-2-1607(B) would appear to indicate that the Commission has determined the efficacy of stranded cost recovery before convening the working group to further evaluate the issue -- Destec strongly recommends against such a step.²

Finally, Destec disagrees with the Commission's intent inherent in the mandate regarding a "Solar Portfolio Standard" as contained in § R14-2-1609. "Carve-outs" for specific technologies are not appropriate in a market environment. Customers will "voice" their preferences through market actions, and responding to such signals, successful suppliers will satisfy those preferences. In fact, consumers have voiced such preferences in places as diverse as Traverse City, MI, and Norway -- each has had recent success at oversubscribing "green" resources. Should markets fail to send appropriate signals, and policy-makers determine that subsidies are desired for socially-desirable technologies, all such technologies should be identified; and, explicit taxes be developed and imposed to support their development.

Respectfully submitted,



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² Destec again refers the Commission to its Comments of September 11, 1996.